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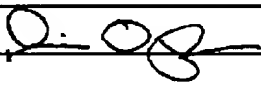

**DEC 27 2005**

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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) <b>I078 1010</b>	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460" [37 CFR 1.8(a)] <b>December 27, 2005</b> on _____ Signature  Typed or printed name <b>Diana Ogles</b>		Application Number <b>09/893,291</b>	Filed <b>06/27/2001</b>
		First Named Inventor <b>Isaf, et al.</b> <hr/> Art Unit <b>3624</b>	
		Examiner <b>Kelly Skaggs Campen</b>	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.  This request is being filed with a notice of appeal.  The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/95) <input checked="" type="checkbox"/> attorney or agent of record. <b>32,497</b> Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		 Signature <b>John J. Timar</b> Typed or printed name <b>(404) 888-7412</b> Telephone number <b>December 27, 2005</b> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.8. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22313-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: ) Examiner: **Kelly Skaggs Campen**  
Stephen T. Isaf ) Group Art Unit: **3624**  
Serial No: **09/893,291** ) Confirmation No.: **4314**  
Filed: **June 27, 2001** ) Attorney Docket No.: **I078 1010**  
For: **Partner Relationship Management System**

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Examiner's Final Office Action mailed August 25, 2005, for the above-identified patent application, Applicant submits the following arguments in conjunction with this Pre-Appeal Brief Request for Review.

The Examiner's rejection of claims 1-15 and 22 under 35 U.S.C. 102(e) as being anticipated by *Stone, et al.* (U.S. 6,738,750) is in error.

Under 35 U.S.C. § 102, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (quoting *Verdegaal Bros. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as contained in the ...claims." M.P.E.P. § 2131 (quoting *Richardson v. Suzuki Motor Co.*, 868 F. 2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989))

Claim 1 is directed to a method of facilitating trade and includes the steps of accessing a plurality of preconfigured buyer profiles, each profile of the plurality of buyer profiles including at least the identification of a buyer, a delivery destination, and a pricing factor associated with the identified buyer; accessing a logistics database including at least costing information associated with shipping to delivery destinations; configuring a plurality of output prices, each output price associated with one buyer profile, and being a modification of the input price to reflect at least a cost of shipping to the delivery destination and a price adjustment affected by the

pricing factor associated with the buyer profile; and confidentially distributing the plurality of output prices to the identified buyer associated with each buyer profile.

Pricing factor is defined by Applicant at page 17 of the specification. As defined therein, the pricing factor is an attribute of buyer profiles that enable sellers to uniquely differentiate prices between buyers and have general purchasing characteristics of particular buyers reflected appropriately in price quotations. The pricing factor is a number, typically a percentage or a currency amount, entered into the respective user profile and used by the price configurator in price conversion calculations associated with the respective buyer. The pricing factor enables sellers to disseminate price information directly and confidentially to targeted buyers and more accurately ensure that product prices are reflected by the true cost of executing the transaction.

Applicant's arguments regarding the Examiner's rejection of claim 1 are found in the amendment response filed February 18, 2005, at pages 7 – 9. Specifically, Applicant argued that *Stone, et al.* fails to teach a buyer profile that includes a pricing factor associated with the identified buyer, a logistics database including costing information associated with shipping to delivery destinations, configuring a plurality of output prices that reflect at least the cost of shipping to the delivery destination of the respective associated buyer profile, and a price adjustment affected by the pricing factor of the respective associated buyer profile; and confidentially distributing the output price to the identified buyer associated with each buyer profile.

In the teachings of *Stone, et al.* cited by the Examiner, there is a teaching of a transaction database that maintains data on the buyer's purchases of products, goods, or services offered by the seller. *Stone, et al.* also teaches an inventory database for monitoring and controlling inventory of products, goods, and services offered for sale by the sellers. None of these teachings represent any of the steps recited in the method of claim 1. *Stone, et al.* further teaches at column 5, lines 15 – 19, that the invention automatically publishes the information and data received from sellers in an open-access format that is readily available to public automatic search and index programs. This is a teaching away from a confidential distribution of an output price to an identified buyer associated with a buyer profile. *Stone, et al.* further emphasizes the public aspect of pricing distribution at column 5, lines 26 – 28, which teaches that the automatic

distribution method is more efficient than managing each directory individually. Therefore, the rejection of claim 1 as being anticipated by *Stone, et al.* is in error.

Claim 2 depends from claim 1 and Applicant's arguments that this claim is not anticipated by *Stone, et al.* is found on page 10 of Applicant's February 18, 2005, amendment response.

Claim 3 is directed to a system for facilitating trade and includes, among other elements, a plurality of pre-configured buyer profiles with each buyer profile including at least the identification of the buyer, a delivery destination, and a pricing factor associated with the identified buyer; logistics data including at least costing information associated with shipping to delivery destinations; and a computer program feature for converting the input price at the server to a plurality of output prices, each output price being a modification of the input price and reflecting at least (i) the cost of shipping to the delivery destination and (ii) a price adjustment affected by the pricing factor of respective associated buyer profile. Each of these elements has a corresponding step in claim 1. The Examiner has cited the same teachings in *Stone, et al.* for the corresponding element in claim 3. Regarding the price adjustment affected by the pricing factor, the Examiner has cited *Stone et al.* at column 20-23 and Figs. 2A-2C. In the first Office Action mailed October 19, 2004, the Examiner made specific reference to element 2725 in Fig. 2B. As noted at page 11 in Applicant's Amendment Response filed February 18, 2005, this reference number corresponds to the transaction negotiation program of server 2000 for negotiating the transaction interactively with the buyer. In the computer program feature recited in claim 3, there is no interactive transaction between seller and buyer involved in converting an input price to a plurality of output prices taking into consideration shipping costs to the delivery destination and a price adjustment that is affected by the pricing factor. Applicant's arguments with respect to claim 1 are also applicable to the rejection of claim 3. Therefore, the rejection of claim 3 as being anticipated by *Stone et al.* is in error.

Claims 4-12 depend, either directly or indirectly, from claim 3. Applicant's previous arguments with regard to the separate patentability of each of these dependent claims can be found at pages 11-14 in Applicant's Amendment Response filed February 18, 2005.

Claim 13 is directed to a computer readable medium containing a computer program for managing a trading platform and recites program instructions that allow a producer to create a

buyer profile, grant access privileges to the buyer, receive an offer price from a seller, and calculate a plurality of delivered prices, with each delivered price uniquely calculated for individual buyers based at least in part on an individual buyer's pricing factor. The Examiner rejected this claim based on the same rationale that was applied to claim 1. Applicant's arguments made with respect to claim 1 are equally applicable to this rejection. Therefore, the rejection of claim 13 as being anticipated by *Stone et al.* is in error.

Claims 14-15 depend from claim 13. Applicant's arguments regarding these claims are found at page 15 of the February 18, 2005 Amendment Response.

Claim 22 is directed to a system for facilitating trade and recites the steps of generating at a server on a global computer network a plurality of delivered prices from a single origin price input by a seller via a network client and making one delivered price of the plurality of delivered prices confidentially access to each of a plurality of buyers via a network client. In the material cited by the Examiner, *Stone et al.* provides a definition of cookies, describes the contents of a buyer database and teaches a transaction negotiation program for negotiating an interactive transaction with the buyer. *Stone et al.* fails to teach generating a plurality of delivered prices from a single origin input price at a server and making one delivered price of the plurality of delivered prices confidentially accessible to each of a plurality of buyers. Therefore, the Examiner's rejection of claim 22 as being anticipated by *Stone et al.* is in error.

The Examiner's rejection of claims 16-21 under 35 U.S.C. § 103(a) as being unpatentable over *Stone et al.* is in error.

Claim 16 is directed to a method for making a bid transaction on a trading platform accessible to sellers and buyers. It recites the steps of receiving buyer information into the trading platform creating at least one buyer profile and establishing a basis for a trading relationship; notifying the buyer of the establishment of the trading relationship and granting the buyer access privileges to the platform; introducing product information into the platform including an origin offer price; generating a delivered price from the origin offer price, forwarding to buyers and the seller's buyer profile by the platform; notifying the buyer of the availability of an offer on the platform; and receiving a counter-offer price from the buyer.

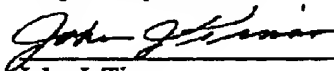
The Examiner rejected claim 16 on the same grounds used to reject claim 1. In addition, the Examiner acknowledged in the October 18, 2005 Office Action that *Stone et al.* does not

explicitly disclose receiving a counter-offer price from the buyer. The Examiner took Official Notice that this feature is old and well known in the art and that it would have been obvious to implement this feature for the advantage of possibly obtaining a higher price and closing the sale. Applicant's arguments with respect to claim 1 are also applicable to claim 16. In addition, in the February 18, 2005 Amendment Response, Applicant traversed the Examiner's taking of Official Notice that receiving a counter-offer price from the buyer is old and well known in the art. The Examiner has failed to provide any basis for this assertion that it would be obvious to one of ordinary skill in the art of electronic commerce to implement a step of receiving a counter-offer price from the buyer on an electronic trading platform accessible to buyers and sellers. The Examiner's stated motivation for doing so that it would lead to a higher price for the product is clearly not a result that could be reasonably expected from receiving a buyer's counteroffer. Therefore, the rejection of claim 16 under 35 U.S.C. § 103(a) over *Stone et al.* is in error.

Claims 17-21 depend directly from claim 16. Applicant's arguments for the separate patentability of each of claims 17-21 is found on pages 17-18 of Applicant's February 18, 2005 Amendment Response.

In view of the above, it is submitted that the Examiner's rejection of claims 1-15 and 22 as being anticipated by *Stone et al.* is in error because *Stone et al.* fails to teach each and every element set forth in these claims, either expressly or inherently. Furthermore, the Examiner's rejection of claims 16-21 under 35 U.S.C. § 103(a) is in error for at least the reasons that *Stone et al.* fails to teach notifying the buyer of the availability of an offer on the trading platform and receiving a counter-offer price from the buyer.

Respectfully submitted,



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12/27/05  
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